Supreme Court, U.S.
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001684 MAY - 7 2001

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No.

In The
Supreme Court of the United States

MOHAMED AHMED
Petitioner (PRO SE)

v.

PARADISE LAKES COUNTRY CLUB, a home owners association, WHATCOM COUNTY, WHATCOM COUNTY SUPERIOR COURT, WHATCOM COUNTY SHERIFFS DEPARTMENT, and Joe Shearer, an individual, and M.T.LANN, a deputy of WHATCOM COUNTY SHERIFFS DEPARTMENT.

On Petition of Writ of Certiorari
To The United States Court of Appeals
For The Ninth District

PETITION FOR WRIT OF CERTIORARI

Mohamed Ahmed
6-1130 Granville St.
V6Z 1L8, Canada
Tel.: 604-687-4651

45 pp

QUESTIONS PRESENTED

Case # 1, Mohamed Ahmed v. Paradise et al.

1. Can the Findings of Fact from a County Court be considered in the Jury Instruction in a trial in th U.S. District Court?
   These Findings of Fact included a ruling where plaintiffs were prohibited to borrow water from their neighbors and the case of Discrimination by shutting of the water from Plaintiff's property was never litigated in this case, yet the U.S. District Court Judge made this case a part in the jury instructions by telling the jury how to rule. Basic Rule of Law is that the Jury should be the finders of Fact and the judge may not enter post-trial Findings of Fact and herewith invade the jury function.

2. Can the U.S.District Court Judge enter the same Findings of Fact from the County Court in her Jury Instructions, when the County Court itself a Defendant in the same proceeding?

3. When the Plaintiff was called "that Arab", "Sandnigger", "not a Hindu, but some kind of an Arab...", "I should have taken him out" , Ten years ago I would have known who to call, but today I am not sure" and then the water is shut off on the holiest day in the Muslim calendar, which was definitely intended to cause maximum aggravation to the plaintiff , does that not construe Discrimination or a Violation of Equal Protection?
4. Was the 9th Circuit correct in applying Case Law Patel v. Penman, 103 F. 3d.868, 878 (9th Cir. 1996), where in this case the Patels were clearly running a questionable motel in San Bernadino, California, with a history of

prostitution, criminal activities, roach infestation, violation of building and electrical codes, where the City closed them down after giving them multiple notices to correct their problems and the Patels were unable to show that other motel properties similarly situated were treated differently?

5. Can a home owners association shut off the water of a member, in a clear violation of the covenants of the association, which defines how to deal with a non paying member? (in this case plaintiffs had placed the dues in a trust account pending the outcome of the trial in the County Court and kept the defendants informed of the name of the bank and number and balance of the account.). Also the covenants' "Declaration of Easement" guarantees water supply not to hinder, prohibit or suffer to be interrupted as the same is operated to furnish water for public consumption".

Case # 2 Mohamed Ahmed v. Whatcom County Sheriff's Department et. al.

1. Are Defendants entitled to a Summary Judgment, where the factual issue is " genuine" and requires consideration of the applicable evidentiary standards? (983 Fed. S. 708)
2. Should the U.S. District Court and the United States Court of Appeals for the Ninth District not have determined their decision to grant a Summary Judgment Motion in the light most favorable to the party opposing the motion? (U.S. v. Diebold Inc. 369 U.S. 654, 655.)
3. Did the Court construe the evidence most strongly opposing the motion for Summary Judgment, did the court in addition construe the evidence most strongly in favour of the party opposing the motion? (T.W.Electric

Service v. Pacific Electric Contractors (809 F2nd626,630,631 (9th Cir.1987))

4. Did the Court examine affidavits supporting the moving party closely while those of the opponent party were indulgently treated? (757 Fed R. 2nd. 557, 562).
5. Was the Ninth Circuit correct when they used Rohde v. City of Roseburg, 137 F.3rd 1142,1144 (9th Cir 1998), cert. denied, 525 U.S. 817 1998 as a case law?

PARTY'S DISCLOSURE STATEMENT

Petitioner Mohamed Ahmed (Pro Se) is a private person and a shareholder in Paradise Lakes Country Club, a home owners association /non profit corporation in Sumas, Whatcom County, in the State of .Washington.

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PRELIMINARY STATEMENT

As now it is interpreted by the Ninth Circuit Court of Appeals that persons of different race, colour and religion are allowed to be treated differently in the same circumstances .

The same Court is likewise upholding the granting of a Summary Judgment, where a police officer does not have to explore all the evidence in front of him and he does not have to confer with a fellow officer, older more experienced and obviously wiser than he is. An arrest ticket which was written before the arrest and stating time of arrest before officer arrived at the scene, the colour of hair, height, race and age were totally different from the actual facts, proving a set up between the police and the board and management of Paradise Lakes Country Club. In this case the Ninth Circuit Court affirmed the decision of the District Court to grant Summary Judgment, without considering all evidence and affidavits. The Judges inquiry, therefore, unavoidably should have asked whether reasonable jurors could find by a preponderance of evidence that the plaintiff was entitled to a verdict.

OPINIONS BELOW

The decision (Memorandum) of the Ninth Circuit Court of Appeals is not reported and this memorandum and the following documents are reproduced in the Appendix. Memorandum from U.S.Court of Appeals: App. 7 and 8; Order of Denial of Appellant's petition for panel

rehearing: App.9; Judgment from U.S. District Court: App.10; U.S. District Court's Denial for attorney's fees: App.11; U.S. District's Order to adopt Report and Recommendation re: Summary Judgment for Whatcom Sheriff's Dept.et al.: App. 12 and 13; Statutory provisions involved: App. 5 and 6;

JURISDICTION

The decision of the Ninth Circuit Court of Appeals was filed on December 13, 2000, jurisdiction under 28 U.S.C. Par. 1291. Basis of Jurisdiction of U.S.District Court was: 3. Federal Question, 4. Diversity.

STATUTORY PROVISIONS INVOLVED

The following statutory sections are reproduced in the Appendix beginning at App.5 and App.6

STATEMENT OF CASES

CASE NO.1

This is a case where a home owners' association acted against the Covenants and the Bylaws of the association by turning off the water supply of a members' property. The association and their president, as an individual, discriminated against the owners of the property, against their race, religious beliefs and origin. The plaintiffs were the only ones,

whose water was turned off intentionally on the holiest day on the Moslem calendar. (Excerpts: Vol.:2:147:9-12.)* This constitutes a breach of contract and a case of discrimination. Mohamed, Jutta and Samira Ahmed purchased their house in August 1994 in Paradise Lakes Country Club, (later referred to as PLCC), a home owners' association., about 25 miles east of Bellingham, Whatcom County, Washington. The Ahmeds wanted to get away from the city and were hoping in this pristine area with their high trees would be the perfect place for them. Mohamed had a six bypass open heart surgery a few years earlier and his health improved in the first few month they were there.

Plaintiff filed this action against the Defendants Paradise Lakes Country Club (PLCC) and Joe Shearer, an individual on October 1. 1997 for Discrimination and Breach of Contract in the U.S. District Court.

Mohamed was born in Egypt, Jutta was born in Germany and so was their daughter Samira. Mohamed is a Canadian Citizen and Jutta and Samira are U.S. Citizens. Mohamed and Jutta, after they semi-retired, founded a charity, INTERNATIONAL MOSLEM VOLUNTEER RELIEF SOCIETY, for which they travel the world, to establish orphanages and feeding centers to help the needy children. Mohamed is a writer, a pilot, licensed in both Countries Canada and the United States, diplom film maker, graduated from London England and Berlin Germany. Their daughter Samira was living with them and the deed of the house they purchased in PLCC carries all three names, Mohamed, Jutta and Samira Ahmed. Samira is 35 years old and an independent person. (Appendix:10)*

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* Documents marked with * have been submitted to 9th Circuit as evidence. This notation will be used throughout the rest of this document.

The Ahmed family never wanted to have any thing to do with PLCC, they stayed away from the office and basically minded their own business. They became involved with PLCC only, when one of their neighbors complained about their blind dog. They dealt with that issue by erecting a fence. When PLCC Security entered the Ahmed property again and again to harass them by threatening them to give them fines and shining their search lights into the Ahmed's windows at night,(Excerpts: Vol: 2:80:3-6 and 81:4-5)* they took their concerns to the club. First by writing, then by trying to address the board of directors, where they were rudely told that this was a closed meeting and they should leave, in violation of the State Law. According to the RCW (Revised Code Of Washington) all home owners' association meetings are to be open to the members of the association, but the members of the board had voted between themselves to keep the meetings closed to the membership, which constituted a breach of contract and the board of directors were running a secretive operation.

Every time the Ahmeds asked for financial records of the association, they were told that this was privileged information and to go to the Superior Court. (Excerpts: Vol.: 2:147:1-4)* to get an order to see these documents. Finally a lawsuit was entered against the Ahmeds in the Whatcom County Superior Court by PLCC, restraining the entire family from entering PLCC offices, any of the meetings and this was even amended to not go close to the offices for 100 feet, this included the swimming pools, the garbage facility, the club halls, they were not allowed to write to complain to any Federal or State agency, legally or illegally, not to have any meetings to talk about the club's business in this country or any other country (Excerpts: Vol.: 140:19-25 and 141:2-6)*. The Ahmeds were not allowed to walk their own street . But PLCC was ordered by the court to open the books to the

membership, they were ordered to have the membership meetings open to the members, but continued their defiance against the court orders. Up to date the Ahmeds were never able to inspect the books of the association. PLCC arrogantly wrote a letter, stating that the meeting hall was available for rent to anybody, member or not member, but not to the Ahmeds, a clear violation of Equal Protection.

Now, after the Ahmeds were deprived of basically their Human Rights and the use of the facilities, they decided that they would inform PLCC through their attorney, as per courty order they were not to deal with PLCC directly, that from now on they would be paying their dues in a trust account, set up in the name of PLCC, pending the outcome of the court case. They gave them the number and the name of the bank.

The covenants of the association and their bylaws state that in the event that charges (dues) remain unpaid, the association could file a lien against the property with the auditor of Whatcom County and charge an interest of 10% per annum. It should not exceed $10.00 per annum. It also mentions that if it is still not paid, then the association may foreclose on the property.(Appendix: 12a*. page 2) In the "***Declaration of Easement***", which is a part of the covenants, it says, "that the grantors PLCC, are required to keep the water supplied from said reservoir to said pipeline to the plat of Paradise Lakes Country Club. And it says further " ***Now Therefore, the grantors agrees and covenants that said grantors, their heirs, successors, and assigns will not prohibit, hinder or suffer to be interrupted of said water supply as the same is operated to furnish water for public consumption."***(Appendix 12b*) The Ahmeds were confident that PLCC would abide by their covenants and bylaws.

On April 16th, 1997, PLCC turned off the water to the Ahmed residence. The Ahmeds turned to Whatcom

County Superior Court to have the water reconnected. The first motion was heard by a commissioner who referred it Judge Mura in a a second motion. In this second motion PLCC introduced an affidavit from the General Manager of PLCC, Craig Olason, who wrote that in the event that dues owed to the club were more than $ 600.00, PLCC had decided to shut off the water. (Appendix: 13)* (Excerpts: Vol.: 2:149:4-14)*. When the Ahmeds introduced to them proof that they did not owe more than $420.00, Judge Mura told PLCC to go back and re-check their documents, "maybe they had made a mistake".

In the third motion to reconnect the water, PLCC returned to introduce to the court a new amended affidavit from Craig Olason, (Appendix: 14)*(Excerpts: Vol.2:15:25 and 151:1-19)*, now stating that the manager was new at his job and his new statement was, that the club's policy was, that PLCC would shut off any member's water, as soon as they were delinquent, and attached to this document, PLCC introduced a copy of a PLCC meeting in which the board of directors voted between themselves , saying that in fact they could shut off any member's water as soon as their account became overdue. The problems with this minutes are, that they were taken in a closed illegal meeting to the membership, this policy was never voted in by 60% of the membership, and this issue was already dealt with in the covenants and bylaws.(by putting a lien against the property and then if still delinquent have a foreclosure action taken.

When the Ahmeds found out, that they were singled out, according to the minutes of PLCC, where it was mentioned that 280 members were also delinquent in their accounts, one member owed over $60,000.00, and the Ahmeds were the only ones, up to the date, when the water was cut off, the Ahmeds sought to amend their counterclaim in Whatcom County Superior Court to include that PLCC

had discriminated against them by unlawfully shutting off their water.(U.S.C.A.14). However this motion was denied, and their claim was never litigated in Whatcom County Superior Court, however Mr. Li, the attorney for the Ahmeds got sanctioned $15,000.00 for defending them.

As a matter of fact, when U.S. District Judge William L. Dwyer, who was assigned to this lawsuit right in the beginning, issued his Order dated, November 25, 1998, (Appendix: 2)* dismissing PLCC's motion for Summary Judgment, he wrote in Page 4: 24-25 and Page 6:1, The Federal Courts have no more right to decline the exercise of jurisdiction which is given to asurp that which is not given. The one or the other would be ***treason to the Constitution.*** When Judge Marsha Pechman instructed the Jury to adopt the Fact-finding of the Whatcom County Superior Court, she is not only throwing out the Federal Court's Jurisdiction but also she is stepping over and ignoring Judge Dwyer's Ruling. Judge Dwyer definitely is one of the most respected, knowledgeable and senior Federal judges, keeping in mind, that this case is Judge Marsha Pechman's first ever in Federal Court. (Excerpts: Vol.4:493:7-10)*

What is mindboggeling to us, is that this case when it started in 1997, was assigned to Judge Dwyer and the defendants kept up their delaying maneuvers and tactics for three years in an effort to drain the Ahmeds financially and psychologically. Finally, when a trial date was set, a week before the trial, they were surprised, to have our case assigned to Judge Pechman, no reason was ever given to us.

Further more Whatcom County Court House was named in this case as defendants, for their illegal, illogic rulings and abuse of office, by the three County Judges in this small town racist enclave. Their rulings are in effect an insult to the Constitution and Intelligence as well as Civil Rights and Justice System of the United States of America and

cannot be enforced as ordered, inside or outside this country. Judge Pechman added insults to our injuries by taking the Whatcom County Judge's Fact-finding ruling as a law.

The Ahmeds went to Whatcom County Superior Court with a motion to have the water re-connected, but the judge ordered that the Ahmeds had to pay $420.00 to have their water re-connected. He also ordered the plaintiffs ***not to borrow water from their neighbors!***

This Violation of Equal Protection case was never litigated in Whatcom County Superior Court and the County ruling should not have been taken as a law and be a part of the jury instructions. The non payment of dues was just an excuse for PLCC to shut off the Ahmed's water, in fact at that time there were $1500.00 in a trust account set up by the Ahmeds in the name of PLCC,(Excerpts Vol.: 2:141:21-25 and 143:6-13 and 143:15-20)*, pending the final outcome of the trial. PLCC also violated the association's only binding covenants (Appendix 11)* (Excerpts: Vol.2,154:7-13)* and bylaws.(Appendix:11)* (Excerpts: Vol.2:155:17-24)* as stated in the testimony of Jutta Ahmed . This Discrimination Case was a totally new case and had nothing to do with Whatcom County.

From the very beginning Judge Pechman seemed to be biased by dismissing the claim of Samira Ahmed, claiming that the Plaintiffs never introduced a proof of the ownership of Samira, where in fact all court documents were on all three names from the beginning when the court proceedings started. The defendants never introduced any documents to dispute this fact, as their own records show the three names as owners and as they had to have a copy of the deed (Appendix:10)* from day one , when the property was purchased in PLCC. To claim, that Samira is not an owner is totally absurd, because they were the ones to bar all three of

them from attending any membership meeting. Attached copy of the deed (Appendix: 10)*

Judge Marsha Pechman proved to be prejudicial, when she ordered the dismissal of Joe Shearer as an individual defendant. Joe Shearer used the words: "If Mohamed asks, tell ***that Arab***, I am taking these down", referring to Mohamed's campaign literature, to prevent Mohamed from being elected)(Appendix:16)* He said this one day before he was elected to the board of directors of PLCC, that makes him an individual, not an agent of PLCC at that time.

Judge Pechman recommended to accept the Findings of Fact and Conclusions of Law from Whatcom County Superior Court to be put in front of the Jury right in the beginning of the trial, whereby influencing the Jury's Verdict . (Excerpts Vol.:, 103: 9-18)* and accepted it as a fact. (Excerpts: Vol. 1, 104: 21-23)*. It is the basic rule of law, that in a jury trial, the jury are the finders of fact and the judge may not function as a jury. So, for the judge to enter a post-trial Findings of Fact is in fact improper invasion of jury function.

Jutta Ahmed testified under oath that they had not been treated fairly, they did not do anything wrong. (Excerpts: Vol.: 2:144:18-25)* Because of the water shut-off the Ahmeds lost the enjoyment of their house. (Excerpts: Vol.2:161:17)* She testified further that she was humiliated and depressed (Excerpts: Vol. 2:164:25*, ..."Not treated like other people, we felt like treated differently, and we felt like people which did not deserve to exist, we felt humiliated, and we felt very, very sad". (Vol.: 2:166:1-4)* "We felt that we were singled out, that we were the only ones, and the judge said, " If you are singled out, then you know, that is totally wrong." But we felt that we were singled out. Excerpts: Vol.2: 206:1-3)* She read the minutes of the PLCC meeting

from the May meeting 1997: "Mr. Olason proclaimed his goal of more progressiveness in collection of past due accounts. He has found approximately 280 past due accounts" (Excerpts: Vol.2:160:9-11)*. The Ahmeds water was turned off on April 16th 1997, one month before these minutes were issued. It makes no mention of other water shut-offs of other members. (Excerpts: Vol.:2:160:9:11)*

The Ahmeds had to drive about 400 miles from Seattle through the night to pick up the witness Herman Schoen, PLCC's ex- manager, to avoid Judge Pechman's threat to declare a mistrial, so that they can be in the Federal Court with the witness at 8:30 in the morning, as she had ordered Mr. Schoen to testify at that time, without the Jury present, that Joe Shearer, the president of PLCC had called Mr. Ahmed a ***sandnigger.*** The Judge did not trust Mr. Li, the Ahmed's attorney's word, that in fact Mr. Schoen was going to testify to this in front of the Jury. (Excerpts: Vol. 2:127)* In doing so she caused a great inconvenience to the Ahmeds as well as to the witness for no logical reason, other than the threat of dismissing the case. The witness, Mr. Schoen later on testified again in front of the Jury in regard to this word (Excerpts: Vol.: 264:23)* It is very important to mention that the Ahmeds received many death threats via telephone and also by mail. In one of the letters (Appendix:17)* sent to the Ahmeds, the word ***sandnigger*** came up many times, the name, Joe Shearer had called Mr. Ahmed in front of Mr. Schoen. The Jury Instructions never mentioned the name ***sandnigger.*** (Excerpts: Vol. 4:496-506)*

Witness Linda Largent testified , that the Ahmeds had been "mistreated". She also testified that she owed about $1600.00, but her water had never been shut off and her name was never mentioned in the PLCC minutes. (Excerpts: Vol.: 2:237:16 and 238:16)*

Witness James Winfrey testified, that the former president of PLCC in a conversation with his wife and George Klos, the manager at that time where laughing when they heard that Mr. Ahmed was hospitalized due to cardiac difficulties, when Mrs. Andrews stated to the crowd that she did'nt know that Hindus had a heart. Her husband James Andrews, PLCC president at that time, corrected her, stating that ***he was not a Hindu*** but was some ***kind of Arab***,...(Excerpts Vol.: 2:250:4-9)*. This shows clearly the racism and discrimination against Mr. Ahmed from members of the board of PLCC and their presidents.

Mr. Schoen, the witness was called back on the stand and testified, that the Ahmeds were the only ones, their water was shut off, one other one he had done himself. (Excerpts Vol.: 2:258:11-14.)* Mr. Schoen was hired about six month after the Ahmed's water was turned off on October 1997, he testified that he turned off the water of a drug dealer and that was about 6 months after the fact the Ahmeds water was turned off. He also testified, that it was done in violation of the covenants. (Excerpts: Vol. 2:216:3-4)*

Mr. Schoen testified that Joe Shearer said to him ,that Mr. Ahmed was "***certifiable nuts***" (Excerpts Vol.: 265:11)* and " ***I should have taken him out***" (Excerpts: Vol.2: 265:16)*, meaning, I should have killed him. ***"Ten years ago I would have known who to call, but today I'm not sure***." Excerpts: Vol.:2:265:22-23)*. The defendants could never dispute or argue this fact, after all one of the PLCC attorneys was representing partners of Joe Shearer some time ago when Joe Shearer was called a drunk, a thief and a liar in court documents while he was working as a bartender in a tavern called "Holy Smoke, It's a Tavern" in Whatcom County.

Herman Schoen the manager, testified, that the water shut-off situation was never discussed with him until late

September, October, 1998, a year after he was hired. (That was a year and half after the Ahmeds water was turned off.) (Excerpts: Vol. 2: 273:16-18)*

Mr. Li, the attorney of the Ahmeds vigorously defended the decision of the court, pleading with judge Pechman not to use the Ruling from Whatcom County Superior Court, but the judge was adamant in her decision.(Excerpts Vol.3:336:6-25 and 337:1-25, 338:1-8)*

Defendants' Witness, Jeff Lau, the accountant of PLCC testified, that it was not practice to shut off the water (Excerpts: Vol.3: 351:23-25)*. He further testified, that Craig Olason the manager, who was instrumental to shutting off the Ahmed's water, was actually trained by him and he had instructed him how to deal with the water-shut-offs.(Excerpts: Vol.: 3:354:15-25 and 355:1-10)*. This proves, that the two affidavits,(Excerpts:Vol:2:149:4-14* and Vol.:2:150:25 and 151:1-19)* introduced to Whatcom County Court, which were done under oath by Craig Olason, the manager, who turned off the water from the Ahmed residence, were in fact lies and fraud.

Defendants' Witness John Ivy was employed after the Ahmed's water was shutoff. Anything he did or did not do was after the fact. He did admit that he received notices to shut off the water from managers Schoen and David Royea, who was the manager after Herman Schoen. This would have been a year and a half after the water shut-off-off to the Ahmed residence. (Excerpts: Vol.:3. 370:15-16)*

Defendants witness David Royae, the present manager, also testified that he did not shut off any water to houses in the first few months he was employed with PLCC, his excuse was a cash flow problem. (Excerpts:Vol: 3:387:4-8)* He further testified that PLCC has no records of water-shut offs. (Excerpts: Vol.: 3:391:24-25)*. He testified, that records for the water shut-off were destroyed in fire.

(Excerpts:Vol.: 3:399:7-10,16-18 and 400:8-10)*. It was determined, that this fire was an arson, which leaves a big question S mark as to who did it and why the records were kept there in the first place.(In the security guards office)

Witness Joe Shearer, the PLCC president at the time of the water shut-off, testifies, that there were so many people behind in dues, so they had to do something. (Excerpts: Vol.: 4 :449:21, 450:6-8)*, and does not know how many families' water was shut off (Excerpts Vol.: 4:461:10-17)* Then he tells the jury that five were shut off from January 1997 to April 16th 1997 (Excerpt Vol.:4:462;23-25, 463;1-18)*. According to his interrogatories, (Appendix:18)* he mentions Garb Incorporated, which is clearly not a residence, but a business. According to his interrogatories, he could not give a number how many were cut off, because the office had burned down. Then he says that three residences were turned off, including the Ahmeds', he gave a very contradictory testimony (Vol.: 4:464:2-25, 465:1-25,466:1-25)*, and admitted that over a hundred were behind in dues, 467:5. He admitted that he ordered the manager to cut of the water from the Ahmed's neighbor Mrs. Daisy Maddill, who had been supplying the Ahmed family with water from a garden hose pipe. Mrs. Ahmed testified, that in fact they borrowed water through a hose pipe and testified that this water was unfit to drink and very toxic. (Excerpts:Vol.: 2: 157:17-21)* Joe Shearer testified, that if Mrs. Maddill went over the regular allotment, she would be cut off also. Mrs. Maddill, who had never been delinquent in her account to PLCC, who lives in Canada and owns two lots and has two water meters, would never go over the allotment of 270 Gallons/day. (Excerpts:Vol.: 4:469:14-20)*. It is very obvious that Joe Shearer and PLCC were targeting the Ahmeds. In fact, PLCC has never counted the consumption of water of any member or lot up to date.

Mrs. Ahmed testified that the garden hose had been cut several times (Excerpts: Vol.: 2:161:7-9)*.

In it's Findings of Facts, the Whatcom Superior Court of Washington not only overruled the only binding contracts, which are the covenants and the bylaws of the home owners' association between the members/owners and the association. With this deed, the court acted as a dictatorship by enforcing their will over 1680 members, which finally contributed to the separation of 8 divisions, totaling about appr.1400 members separating from PLCC.

Judge Pechman from U.S.District Court in Seattle and/or Whatcom County Superior Court have no authority to override the covenants. To do so can only be called a prejudicial biased and illegal ruling. In effect Judge Pechman ignored all the evidence and the witnesses' testimony, the covenants and the bylaws, the only binding contracts. The Breach of Contract was not in the jury instructions, also.

In fact Judge Pechman legitimized the illegal activities of PLCC and with her instruction to the jury and her rulings, dealt a big blow to the Constitution, the Human and Civil Rights as well as the Judicial System in the United States of America

With this Petition of Writ of Certiorari Mohamed Ahmed is requesting, that the UNITED STATES SUPREME COURT grants Mohamed Ahmed a new fair trial with a jury and a different judge presiding over the new trial, with instructions to avoid the illegal and illogical Findings of Fact and Rulings from Whatcom County Superior Court, who are also defendants in this lawsuit.

Jutta and Samira Ahmed are not appealing this lawsuit.

CASE No. 2

This appeal involves the second of the two cases :
Mohamed Ahmed, as Petitioner (Pro Se).

vs.

Whatcom County, Whatcom County Superior Court, Whatcom County Sheriff's Department, and M.T. Lann, a deputy of Whatcom County Sheriff's Department as Defendants and Appellees.

Jutta and Samira Ahmed were plaintiffs in the underlying action but are not appealing the judgment.

Where a police officer, in responding to a call, alleging a Violation of a Protection Order, refused to take the voluntary statements from several eye-witnesses, refused to take the advice from a fellow senior officer not to make the arrest, did not give the accused an opportunity to explain, and arrested the accused after only interviewing the two witnesses pointed out by the accuser, one of whom denied seeing what the accuser said, and the other stated only that the accused yelled and got in the face of " the other guy", whose identity

was never ascertained by the officer, whether probable cause existed for the arrest of the accused for a Violation of a Protection Order.

STATEMENT OF CASE

On October 1, 1997, Plaintiff filed this action against the defendants Paradise Lakes Country Club and Joe Shearer, as an individual, and Whatcom County, Whatcom County Superior Court, Whatcom County Sheriff's Department and M.T.Lann, a deputy of Whatcom County Sheriff's Department.

Mohamed Ahmed, Plaintiff, is a shareholder in Paradise Lakes Country Club (PLCC), a home owners' association, located in Whatcom County Washington State. He and his wife Jutta Ahmed and their daughter Samira, purchased their house at PLCC in 1994.. Mr. Ahmed is semi-retired after his six-bypass open heart surgery. He is a writer, licensed pilot in both countries, Canada and United States, diplom film-maker, he graduated from London England and Berlin Germany. He and his wife are doing a lot of charity relief work in third world countries.

Some time after they purchased their house, the relationship between the Ahmeds and the club's board of directors and management became strained about the harassment he and his family was receiving from the club's security. During the course of obtaining information from the management about various policies of the club, Mohamed became aware that the PLCC president, James R Andrews, who was a Canadian citizen and other board members might have been working illegally in the United States. Mohamed reported this matter to the immigration officer, David Vincent, from the Sumas Border check point, who requested

from him to take pictures of Mr. Andrews' and other PLCC board members' Canadian vehicles plate numbers, so that Immigration could identify and question them at the border. On September 17,1995, Mohamed drove past the Andrews' residence and video taped Andrew's car license plate in front of his residence.

Andrews saw Mohamed taping his vehicle while Mohamed was sitting in his own car on a county road and filed a complaint in Whatcom County District Court for a Protection Order. Although the video-taping was perfectly legal since it was done on a public road, the District Court, which is a part of this lawsuit, entered an Order for Protection (Appendix 1)* against Mohamed on October 3, 1995, stipulating only not to go to the Andrews residence, which Mohamed did not do in the first place and has no intention to do in the future. The Restraining Order clearly crossed out the " No Contact" section and was initialed D.R. (David Rhea), The judge made it clear in the hearing, that Mohamed was not prevented from attending any meeting which James Andrews was attending.
(Appendix: 1:2)*

On October 21, 1995, 18 days after the Protection Order was issued, Mohamed and his wife went to the club's informal " Let's Talk " meeting. (Appendix 3:28-31)* The meeting was designed to give the club members an opportunity to ask questions about the club business. It was chaired by George Klos, the club's general manager.(Appendix: 3:2:4-5)* Approximately 12 to 15 people (Appendix 3:2:4)* attended the meeting. Mr. Andrews was not at the meeting when it started. He and his wife, Carole Andrews, came into the meeting hall, about 20 minutes after the meeting had started.(at 10:20 a.m.)(Appendix: 8:21)* They took seats about 30 feet from Mohamed and his wife. A few minutes later Mr. Andrews got up and asked Mr. Klos for " the key"

to use the telephone and left the meeting hall. (Appendix 8:22 and Appendix 11:11-12)* The meeting continued and Mohamed asked the general manager, Mr. Klos, some questions about the legal fees spent by the club over the previous year and the wages of the club employees. (Appendix 3:2:16-18)*

While he was asking those questions, Carole Andrews jumped out of her seat, walked over to Mohamed and tried to grab the recorder from his hand, while yelling at him that he had no right to attend the meeting. (Appendix 3:2:18-20; 8:21-4;10:2:3-4; 13: paragraph 4)*; Mrs. Andrews also said to the people at the meeting, that there was a restraining order against Mohamed and asked the members if they would like to read it. (Appendix: 8:2:3-4)*

At that point, the general manager announced that the meeting was closed because the ".....Sheriff's Department was called.....". (Appendix: 3:2:20-28)* At no time during the meeting did Mohamed yell at Andrews or got in his face; he did not even speak to Mr. Andrews. (Appendix: 8:1:24-25; 10:2:5-10)*

Andrews had called 911, after that he left the meeting hall and accused Mohamed of violating the protection order, he had obtained from the District Court. Three deputies from Whatcom County Sheriff's Department responded to the call. One of them, M.T. Lann, was the first to arrive at the scene. Andrews was waiting for him in the parking lot outside the meeting hall. (Appendix 10:15-17)* Deputy Lann claimed, that Andrews told him that Mohamed got right in his face and was yelling at him(Appendix: 15:41:1* and he felt, that Mohamed was capable of committing an immediate assault on him.(Appendix 14: line 10-11* He also showed Lann a copy of the protection order he had kept in his pocket.

Shortly after that, people began to come out of the meeting hall. Deputy Lann asked Andrews whether any of

them could be a witness and Andrews pointed out an " unnamed individual" to him. (Appendix: 15: 49:6-7)* When Lann asked this individual, whether he had seen what Andrews had described, he told Lann" I didn't see anything like that" .(Appendix: 15:48:25and 49:1)* Lann did not regard this witness as a witness (Appendix:15:50:20)* and did not write down his name in his report " because that witness did not have any information for or against Mr. Andrews". (Appendix 15:6-7)*

Then Andrews pointed out an other person as his witness, a Mr. Lee.(Appendix: 15-23)* According to Lann's own testimony, after he talked to Mr. Lee, he wrote down what Lee told him in a " Voluntary Statement" and asked Lee to sign it, which Lee did.
(Appendix:15:70:25 and 70:18)* The "Voluntary Statement" (Appendix: 14)* made no indication that Mohamed had yelled at Andrews, or got in his face, or did anything at all to him. It only stated, that he" saw Mohamed and another guy talking", that " at some point, Mohamed got right in this guys's face and was yelling at him." The Statement also said, that Lee did not know the name of the "guy". There was no evidence, that Ann ever asked Mr. Lee who " this other guy" was, before and after he wrote the " Voluntary Statement" on behalf of Mr. Lee and asked him to sign it.

A number of people standing in the parking lot offered to make a statement to Mr. Lann. But Lann refused to listen to them. One witness, a 69 year old retired navy officer, stated: "***A number of people outside tried to explain to the deputy, that Mr. Ahmed had not done anything wrong, but the deputy seemed like he did'nt want to listen to anyone of us and was simply intend of arresting Mr. Ahmed***". (Appendix: 10:3 1-4)* Mr. Fowler further stated, that "***it appeared to me that the whole thing was a set-up to have Mr. Ahmed arrested.*** (Appendix: 10:3:5-6)*

Another witness stated, " I asked deputy Lann if other people could give a statement." ***He was very rude and told me he did not have time to take statements from everyone in the area***". (Appendix: 13, last paragraph)*

Deputy Lann never asked Mohamed any questions before putting handcuffs on him. As to why he did not give Mohamed an opportunity to explain, Lann said that " it was because Deputy Smith had already interviewed him" and " for me to continue to question Mr. Ahmed, I guess, seemed to be sort of beating a dead horse". (Appendix: 15:64:19-25)*

Nor did Deputy Lann ask Mrs. Ahmed any questions even though she repeatedly told Lann that he " was making a mistake", when Lann came over to arrest Mohamed. (Appendix: 3:3:27-30)*

Deputy Smith was an other officer who had responded to the 911 call. He interviewed Mohamed and some other witnesses at the scene. One witness stated, " I was questioned by Deputy Smith about whether or not Mr. Ahmed had ever gotten into Mr. Andrews' face. I told him that Mr. Ahmed had never approached Mr. Andrews at any time during the meeting. I also told him, that the only individual that was disruptive during the meeting was Mrs. Andrews". (Appendix: 8 : 2:7-11)* Deputy Smith told Lann that in his opinion Mohamed should not be arrested.

Deputy Lann did not ask Andrews or Mr. Lee how Mohamed got in Andrews' face, how far away was Mohamed from his face, how loud Mohamed's voice was, or what made Mohamed angry and upset in the meeting. (Appendix: 15:42-43-44)* Lann felt these questions would be " trivial".(Appendix: 15:45:11-12)*

Deputy Lann handcuffed Mohamed from behind, even though Mohamed and Mrs. Ahmed had repeatedly pleaded with Lann because Mohamed had a bad heart condition he should not be handcuffed from behind.(Appendix 3:3:30-33)*

Mohamed was put into the patrol car and driven to the Police Station. On the way, Mohamed suffered from several myoclonic seizures, as diagnosed in the Mayo Clinic in Rochester MN., and was taken to the nearby fire station, where Lann told the firemen, that Mohamed was faking. (Appendix: 15:81:20-23)* The firemen told Lann, that he was wrong and that Mohamed indeed had a serious heart condition. The scar on Mohamed's chest was very obvious to them and Mohamed suffered from irregular heart beats(Appendix: 3:5:22)* The firemen insisted to call an ambulance, that took Mohamed to a hospital, where he was treated and later released on his own request. Lann again handcuffed him from behind and said he did not care what happened to him and that Mohamed would get a fat bill now for his treatment in the hospital.

Mohamed was imprisoned for 28.5 hours before he was released on $ 1000.00 bail. (Appendix: 3:5:16-19)* In jail he was humiliated and denied his basic human rights and he was denied his medication. He was charged with a Violation of a Protection Order. When it was discovered that the charges were illegal, and obvious that it was a sort of an arranged set-up, the charges were changed to " Assault in the Fourth Degree." (Appendix: 4)* This new charge was also dropped later and the entire case was expunged from the records.

More astonishing and mindboggeling is that after months, as admitted in deposition, M.T. Lann made his own inquires and went to PLCC, the hospital and the fire station to add yet a new charge " Obstruction " (Resisting Arrest), (Appendix: 15: 81:12-16)* even though Jutta Ahmed had video taped the entire arrest procedure. Obviously Lann was sure, that he could manipulate the Sheriff's Department to fulfill his own pre-determined agenda.

M.T. Lann forged the arresting ticket (Appendix:2)* document by stating wrong the description of the accused. He

stated the year of his birth 1959 instead of 1939, (making him 20 years younger), the colour of hair is stated as brown, where Mohamed's hair was obviously gray, there was a difference of weight and height, making Mohamed look on paper as a much younger, larger and possibly more aggressive man, contrary to the fact of the training of the police officer for accurate observation and description.

The time of the arrest shown on the arresting document (Appendix: 2)* is also a fabrication. Mr. Andrews arrived at the main hall about 20- 35 minutes past 10 a. m.(Appendix 9:25)*, yet the time of the arrest is shown as 10:10 a.m., an hour and a half before the actual arrest took place and this confirms the set-up. The arresting document was written and prepared before hand. Mohamed was never given a copy of the arresting ticket by M.T.Lann, as required by law. Mohamed would have noticed that, the race was marked as "Indian", where it is obvious that Mohamed is Mediterranean not Indian and he would have noticed all other forgeries on that document, which was obviously written before the arrest took place and is most likely based on the description of other conspirators with deputy Lann.

M.T.Lann refused to acknowledge on the Protection Order document the crossing out of the " No Contact" part,(Appendix: 1, page 2)* which was initialed by Judge D. Rhea, the judge who signed the Protection Order. This was pointed out to Lann by Mohamed and his wife, but his response was: " I do not know, whose initials they are, they could be any body's".

MT. Lann stated in his deposition, that he was some where around Bellingham (Appendix 15:25:13-17)* , when he received the 911 call. He admitted to have received the call at 10:30 a.m. (Appendix: 15:28:17-21)* It takes at least 30 minutes or 30 miles to drive to the main hall of Paradise Lakes Country Club. According to his deposition, he did not

know when he arrived, but he answered: " some time between 10:30 a.m. and 11:53 a.m.. (11:53 sound like a very precise and accurate statement (on the minute) (Appendix: 15:36:23-25)* So how could he have made the arrest at 10:10 a.m., as it was stated on the arresting document?

Lann admitted, that there was a press release regarding the arrest, (App. 15, 28: 3-8)* so the Sheriff's Department went out of their way to have Mohamed scandalized and advertised in the local newspaper in this community, which is very well known for their racist attitude.

It is beyond any doubt that Mohamed was wrongfully and maliciously accused by Andrews. Clear and credible evidence has shown that Mohamed did not violate Andrews' Protection Order or did anything unlawful at the October 21, 1995 club meeting. In fact, he never even spoke to Andrews at the meeting. This fact was not disputed by the Defendants and they submitted no evidence to show that Mohamed had breached any law at the meeting or anywhere, which justified his arrest. Their argument is based solely on a theory that even if Mohamed was completely innocent, his arrest was appropriate because there was probable cause.

As for why probable cause existed, Defendants argued that it was because Deputy Lann had interviewed a witness (Mr. Lee) and this " independent witness" had provided a statement, which says that Mohamed was very angry , was in Andrews' face, and appeared capable of assaulting Mr. Andrews. (Appendix: 11)* While it is true, that Lann had talked to Mr. Lee, the argument on the whole is not based on the fact. First, Mr. Lee was hardly an independent witness, he was pointed out from the crowd by Andrews as his own witness. Second, the statement provided by Mr. Lee does not say that Mohamed got in Andrews' face and appeared capable of assaulting Andrews. It says Mohamed was yelling at " this other guy" and got in the face of "the other guy". As the

statement was supposed to have recorded accurately what Mr. Lee said, prepared on the spot, and signed by Mr. Lee, it is certain that Mr. Lee did not tell Lann that Andrews was the one, being yelled at or got in the face of. Otherwise, Lann would have put down Andrews' name instead of repeatedly using the words " this other guy", " the other guy". As for why Lann did not ask Mr. Lee who " this other guy" was (Andrews was right beside him), we do not know. Lann's failure to ascertain who was " this other guy" has alone created a genuine issue as to the existence of probable cause.

As for whether Mohamed really yelled at someone or got in someone's face, credible evidence from several witnesses strongly indicates, he did not. Indeed, the accusation against Mohamed strongly smells conspiracy. We need only to look at one thing. Andrews came to stay at the meeting for only a few minutes, before going out and never returned. A while later Klos declared the meeting closed and said the Sheriff's Department had been called. How did he know that Andrews went out to call the Sheriff's Department. (They never exchanged any words, only Andrews asked for "the key").

Further, just because Lann had interviewed a witness, it does not mean that Lann had met the standards of probable cause (especially when this witness did not identify Andrews as the one being "harassed"). Probable cause requires more than that.

Probable cause is an objective standard, which is viewed "in light of all the circumstances. One court has identified the following circumstances that should be considered by the court in determining whether probable cause existed: " the reliability of the source, the availability of further information, and the difficulty of obtaining it, the reputation of the accused and his opportunity to offer explanation, and the apparent necessity of prompt action."

Thus, if further information is available and the officer chose to ignore it, or if the information he obtained appeared unreliable, and he chose to rely on it, or there was ample time to offer the accused an opportunity for an explanation and he chose not to do so, probable cause may not have existed

In this case, there were 12 to 15 people standing around in the parking lot, who were all potential witnesses. Several of them offered to make a statement, but Lann refused to listen to them, telling them that he did not have time to question everyone in the area. The witnesses later took the time and effort, not to mention the expense, to make sworn declarations. (Appendix 5,6,7,8,9, and 10). This very much proves, that Deputy Lann was a participant in a conspiracy to have Mohamed rail- roaded, imprisoned and silenced.

Of all the willing witnesses available, Lann chose to rely solely on Andrews to select witnesses for his investigation. These witnesses, being Andrews' own choice, were potentially biased.

Of the only two witnesses the deputy interviewed, the first one had told him, that he did not see what Andrews had described and the second one had failed to identify Andrews as the one being "harassed".

Deputy Lann never gave Mohamed an opportunity for an explanation (Appendix: 63: 10-16)* even though there was no time pressure to wind up the investigation quickly and Mohamed was not threatening anybody and " was standing with his wife sort of away from the group". (Appendix: 15:64: 1-12)* Lann could have taken as much time as he wanted.

Deputy Smith, having made his own investigation, advised Lann, that in his opinion, Mohamed should not be arrested, but Lann refused to listen to him. The fact, that Deputy Smith reached a different conclusion from Lann's investigation,(Appendix 15: 62:6-7)* strongly indicates, that

there was a material issue of fact as to whether there was probable cause for the arrest of Mohamed. The very important issue, is the complete forgery and discrepancy of the arresting ticket document which proves an intentional malicious, fixed set-up pre-arranged between Andrews, Lann and Klos.

An other example, Deputy Lann had admitted, that Deputy Smith had come to him and told him, that in his opinion Mohamed should not have been arrested, but Lann did not listen to him. This indicates that Lann premeditated the arrest and had the arrest ticket prepared before he arrived at the scene. This also proves a conspiracy and a set-up. He did not listen to Deputy Smith, the much older, senior, wiser and experienced officer. Deputy Lann could have talked by radio to one of his supervisors, to ask him about his opinion regarding the arrest, but he had no intention to do this.

Deputy Lann in his sworn deposition dated Oct. 10, 1996 also admitted that there was only a specific policy how to deal with domestic violence, later on the entire sheriff's department was retrained as to how to deal with civil disputes. (Canton v. Harris 489 U.S.at 388, 109 S.Ct.at 1204) (App. 1 to 4)

REASONS WHY THIS PETITION SHOULD BE GRANTED

Case 1.

For purposes of equal protection analysis, factors probative of whether decision-making body was motivated by discriminatory intent include evidence of cosistant pattern of actions by decision-making body disparately impacting members of particular class of persons, historical background of decision, which may take into account any history of discrimination by decision-making bodyor jurisdiction it presents, specific sequence of events leading up to particular decision being challenged, including any significant

departures from normal procedures and contemporary statements by decision makers on record or in minutes of their meetings (Shelley v. Kramer 334 U.S.1, U.S.C.A.14) . Among the civil rights intended to be protected from discriminatory state (home owner's association) action by the fourteenth amendment are the rights to acquire, enjoy, own and dispose of property. (U.S.C.A.14)

Evidence submitted proves a conspiracy between the Manager George Klos of PLCC, PLCC president James Andrews, Deputy M.T. Lann and the Sheriff's Department of Whatcom County to have Mohamed Ahmed arrested. The officer took it on himself to make the decision not to do his duty as an officer and collect as much evidence as he could have before imprisoning Mohamed Ahmed. As a matter of fact he was a part of a premeditated set-up between PLCC's president and manager and the Sheriff's Department of Whatcom County. Mohamed was falsely arrested, humiliated, insulted and physically hurt by this arrest. He was denied his basic Human Rights, when he was deprived of his medication for his severe heart condition in prison. To leave armed and licensed police officers like Deputy Lann to abuse and malign decent , respected, elderly honest civilians, is very dangerous, and left unchecked can be the end of any society.

After this incident the entire Sheriff's department was councilled on how to deal with civil disputes, at the point of the arrest the officers were only handed out the domestic violence response policy, even a year later the Whatcom County police department did not have the policy manual in its entirety. (Appendix: App.1-4)

This case against the Whatcom County Sheriff's Dept. and Deputy Lann was dismissed in a Summary Judgment Order dated the 11th of June 1999. (See App. 12,13)

Further more and equally important is the fact that Whatcom County and Whatcom County Superior Court were

never brought to trial or even had a Summary Judgment. Evidence submitted proves that all contributed in the violation of Mohamed Ahmed's Civil Rights. They abused their office and their power and infringed on Mohamed Ahmed's basic Human Rights, restricting his enjoyment of life, freedom and Constitutional Rights.(RCW 10.31.100)

"In determining whether probable cause for an arrest exists, all information in the possession of the arresting officer, and the fair inferences therefrom, are generally pertinent. A finding of probable cause need not be based solely upon the personal subjective knowledge of the arresting officer. Where police officers are together acting as a unit, cumulative knowledge of all the officers may be considered in deciding whether was probable cause to apprehend a suspect." United States v. Agustino 608 F2nd 1035 (5th Cir.1979) " Where there is at least minimal communication between different officers, we look at the 'collective knowledge ' of the officers in determining probable cause" (U.S.v. Nieto 510 F2nd 1118 (5th Cir. 1975).

RCW 10.14.190 provides: Nothing in this chapter shall be construed to infringe upon any constitutionally protected rights, including, but not limited to Freedom of Speech and Freedom of Assembly.

Unless evidence conclusively and without contradiction establishes lawfulness of arrest, it is a Question of Fact for a Jury to determine whether arresting officer acted with probable cause. (Daniel v. State, 36 Wash App. 59, 671 P 2nd 802.) (Gurno v. Laconnor 828 P 2nd , 49 Wash App. 1992).

7. Civil rights Common Law doctrine of qualified immunity from liability for civil rights violation applies where officer carries out statutory duty, according to procedures dictated to him by statute and superiors and acts reasonably.

13. Emotional stress may be recoverable for intentional tort, even in absence of objective symptoms.

6. Qualified immunity under Paragraph 1983 is granted to police officers performing discretionary functions in so far as their conduct does not violate clearly established stationary and constitutional rights of which a reasonable person would have known.

Claim under 1983 may be proved by showing that person acted under color of state law, collaborated and conspired with private citizen to deprive claimant of constitutional right 42 USC A Paragraph 9 1983. (an ordinary citizen, who conspires with a state agent to violate civil rights of a plaintiff is equally liable....(Fries v. Barnes 618 F2nd 988,990 2nd Cir. 1980)

SUMMARY JUDGMENT

Where we construe the Court's statements as requiring a court to ask whether a jury could find in favor of the non moving party, viewing all of the evidence, both, that of the non moving party and that presented by the moving party, such a construction would contradict the clear instruction that a court may not weigh the evidence or access its credibility (The judges inquiry, therefore, unavoidably asks whether reasonable jurors could find by preponderance of evidence that a plaintiff is entitled to a verdict.) Therefore at Summary Judgment, the judge must view the evidence in the light most favorable to the non moving party, if evidence produced by the moving party conflicts with direct evidence produced by non moving party, the judge must assume the truth of the evidence set forth by the non moving party with respect to that fact. (T.W. Electric Service v. Pacific Electric Contractors, 809 F2nd 626, 630,631 (9th Cir. 1987)

First the court must construe the evidence, most strongly in favour of party opposing the motion (Summary Judgment). In addition, affidavits supporting the movant are

closely examined, while those of the opponent are indulgently treated. Finally the court may not resolve factional issues. It simply must determine whether there is any genuine issue of material fact.(T.W. Electric Service v. Pacific Electric Contractors, 809 F2nd 626, 630,631 (9th Cir. 1987)

CONCLUSION

With this appeal the petitioner is requesting that this Honorable Court grant this Petition for Writ of Certiorari to the Ninth Circuit of Appeals by looking at all evidence of both cases, the law and issues very carefully to preserve the integrity of the lower Court system.

Respectfully submitted,

Mohamed Ahmed (Pro Se)

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF WHATCOM

MOHAMED AHMED
PLAINTIFF

vs. NO. 96-2-01152-1

JAMES ANDREWS,
DEFENDANT

ORAL DEPOSITION OF
DEPUTY MARK T. LANN

Thursday, October 10, 1996
Reported by Rhonda G. Jensen, CSR
CSR JENSERG450N2

Corpolongo & Quelch
1111 West Holly Street, Suite C
Bellingham, WA 98225 (360) 671-6298 or (800) 272-0719
(360) 671-6298 or (800) 272-0719

ORAL DEPOSITION OF DEPUTY M.T.LANN,
PAGES 86 INCLUDING 89; October 10, 1996

A. Because he told me that he did not have any sort of personal relationship or any sort of friendship, social ties or what so ever, to either of the two people involved, and therefore, I viewed him as very credible.

Q. Would it be fair to say since no one else came forward, would it be fair to say that if Mr. Lee had not come forward and given you the statement as he did, that you would not have arrested Mr. Ahmed?

A. You know, I've never thought about that surprisingly enough, but if I did not have Mr. Lee, and nobody, nobody in the crowd here like they did at the time indicated a willingness to get involved or tell me their version of the story, this would have been one of these senarios that you had described earlier where we lack probable cause, and this is one for the prosecutor's office to review.

Q. Now, have you indicated Deputy Lann, that there's some specific policy, and that's recently been written and formalized about how you're supposed to handle calls about alleged violation of protective orders?

A. (Witness nods.)

Q. That's a yes?

A. Yes.

Q. Where is that written down? Is that an internal sheriff's office document or is it some ordinance or—

A. It's in our policy manual, which we actually don't have readily available to each of us at this point. It's, I don't know how to describe it. It's in sort of, it's being revised. However we had a specific policy that came out dealing with only domestic violence issues and orders, and

that came out before the policy manual in whole came out. I don't have a copy of it with myself, with me. I'm sorry, and also past practice.

Q. Was there a written policy in place when this incident occurred, or is that something that was reduced to writing after this incident between Mr. Ahmed and Mr. Andrews?

A. Well, that domestic, that policy that relates specifically to our domestic violence response came out before and separately than the policy manual in whole. In fact, we don't have the policy manual in its entirety at this particular time. we were all handed our domestic violence response policy, and the exact date that came out, I can't tell you, but what I can say that I was very familiar with what our statutory requirement was, and so even if that came out after the incident, I would have deferred to, to that.

Q. Okay. Now, when you were talking about a statutory requirement, I think, I wrote down you said 10.99 or 10.30. Do you recall saying those numbers? Did I get them right?

A. The R C W.

Q. That's RCW Chapter 10.99 and 10.31?

A. Right.

Q. Are there any other statutory requirements that you were referring to when you talked about the statutory requirements for making an arrest in a, in a domestic type situation?

A. I haven't reviewed the new ' 96 RCW. There may be something in 9-A, I don't know.

Q. Who would I need to talk to at the sheriff's office who would be knowledgeable, knowledgeable about how to obtain a copy of that written policy?

A. Lieutenant Parks

Q. Lieutenant Parks?

A. I think he was actually the author of it ,too.

Q. I believe you said that you think that you recalled some other statements that Mr. Ahmed made when you arrested him, but you couldn't be absolutely certain, and you know, we're in a civil case. We're dealing with a burden of proof that's more probable than not, not beyond a reasonable doubt, and with this in mind, I just want to ask you, do you have a memory of what Mr. Ahmed said to you on a more probable than not basis?

A. It had something to do with either suing me or having my job or something along those lines.

Q. You also in the very end of your testimony there, I believe you mentioned that you weren't involved in the decision not to pursue the charges against Mr. Ahmed. Do you know was any deal made with Mr. Ahmed? Have you heard anything about that?

A. The only thing I was aware of was, and I actually got it from your office was this letter from then Undersheriff Dave Waring, that sort of says that upon this administrative review, he determined that there was now some conflicting witnesses that came forward, and I can't find the letter, but basically he had decided, worked out with the prosecutor's office that the charges were not going to be pursued, but I wasn't a part of that. I just now have knowledge that it happened.

Q. Okay, but have you also heard that in addition to dropping the charges or not pursuing the charges that there was some sort of agreement made with Mr. Ahmed, for instance that he wouldn't pursue any civil action against the sheriff's office if the charges were dropped?

A. If there was, I'd like to know about it.

Q. But you don't know about it? That's what I'm trying to find out----

A. No.

Statutory Provisions Involved

RCW 10.14.190 provides: Nothing in this chapter shall be construed to infringe upon any constitutionally protected rights, including, but not limited to Freedom of Speech and Freedom of Assembly.

7. Civil rights Common Law doctrine of qualified immunity from liability for civil rights violation applies where officer carries out statutory duty, according to procedures dictated to him by statute and superiors and acts reasonably.

13. Emotional stress may be recoverable for intentional tort, even in absence of objective symptoms.

6. Qualified immunity under Paragraph 1983 is granted to police officers performing discretionary functions in so far as their conduct does not violate clearly established stationary and constitutional rights of which a reasonable person would have known.

Claim under 1983 may be proved by showing that person acted under color of state law, collaborated and conspired with private citizen to deprive claimant of constitutional right 42 USC A Paragraph 9 1983. (an ordinary citizen, who conspires with a state agent to violate civil rights of a plaintiff is equally liable....(Fries v. Barnes 618 F2nd 988,990 2nd Cir. 1980)

U.S.C.14 ; 16. Constitutional Law 211(3)
For purposes of equal protection analysis, factors probative of whether decision-making body was motivated by discriminatory intent include evidence of consistant pattern of actions by decision-making body disparately impacting members of particular class of persons, historical background of decision, which may take into account any history of discrimination by decision-making body or jurisdiction it presents, specific sequence of events leading up to particular

decision being challenged, including any significant departures from normal procedures and contemporary statements by decision makers on record or in minutes of their meetings. (Constitutional Amendment 14)

FILED Dec. 13 2000
Cathy A. Catterson, Clerk
U.S.Court of Appeals

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH DISTRICT

Mohamed and Jutta Ahmed husband and wife, Plaintiffs-Appellants and Samira Ahmed, a single person Plaintiff v. Paradise Lakes Country Club, a home owner's association; Whatcom County, Whatcom County Superior Court, Whatcom County Sheriff's Dept.; Joe Shearer, M.T.Lann, a deputy of Whatcom County Sheriff's Dept. Defendants- Appellees	No. 99-36102 D.C.No. CV-97-01582-MJP MEMORANDUM[1]

Appeal from The United States District Court
for the Western District of Washington
Marsha J. Pechman, District Judge Presiding

Submitted December 4, 2000[2], Filed Dec 13,2000

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[1]This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by 9th Cir. R. 36-3.

[2]The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: TROTT, GRABER, and McKEOWN, Circuit Judges.

Mohamed and Jutta Ahmed (the "Ahmeds")[3] appeal pro se the district court's judgment for defendants following a jury trial in their Fair Housing Act and civil rights action alleging that defendants discriminated against them because of their race and national origin. We have jurisdiction under 28 U.S.C Par. 1291.

We affirm.

Because the Ahmeds failed to move for judgment as a matter of law, and the records contains no record of plain error, they may not challenge the sufficiency of the evidence to support the jury verdict. See Patel v. Penman, 103 F3rd 868, 878 (9th Cir.1996).

Because the record indicates that deputy Lann possessed reasonably trustworthy information to arrest Mohamed Ahmed for violating a protective order, the district court properly granted summary judgment for deputy Lann. See Rohde v. City of Roseburg, 137 F.3rd 1142, 1144 (9th Cir. 1998), cert. denied, 525 U.S.817 (1998)

AFFIRMED

The Ahmed's daughter, Samira Ahmed, was plaintiff in the underlying action but did not appeal the Judgment.

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[3]The Ahmeds' daughter, Samira Ahmed, was a plaintiff in the underlying action but did not appeal the judgment.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Mohamed Ahmed, Jutta Ahmed husband and wife Plaintiffs-Appellants SAMIRA AHMED, a single person, Plaintiff v. Paradise Lakes Country Club, a home owner's association; et al. Defendants-Appellees	No. 99-36102 DC# CV-97-1582-MJP Western Washington (Seattle) **ORDER**

Before: TROTT, GRABER and McKEOWN, Circuit Judges. Appellants' petition for panel rehearing is denied.[s]

Filed: Feb.9, 2001, Cathy A. Catterson, Clerk
U.S.COURT OF APPEALS

[s] :/Research/Pfr.memos/99-3602.wpd

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MOHAMED AHMED ,et al.

v.

PARADISE LAKES COUNTRY CLUB et.al.

JUDGMENT IN A CIVIL CASE

CASE NUMBER: C97-1582P

xx **JURY VERDICT.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

___ **Decision by Court.** this action came to trial or hearing before the Court. The issues have been tried and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

Judgment is entered in favour of the Defendants Paradise Lakes Country Club.

Dec.22, 1999
Date

BRUCE RIFKIN
Clerk
/s/ Mary Duett
By, Deputy Clerk